



To: Steering Committee
WIB Directors
Program Directors

From: Craig E. Hartzler, Commissioner

Date: May 16, 2003

Subject: DWD Communication # 99-30
Communication of policy and information
regarding waiving the training requirement for TAA certified workers

Re: Trade Adjustment Assistance Act Funds

Frank O'Bannon, Governor
Alan D. Degner, Commissioner

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Purpose

To provide Indiana Department of Workforce Development (DWD) policy regarding the issuance of training waivers under the Trade Adjustment Assistance Act (the Act).

Recession

DWD Communication E95D-8017 dated March 29, 1995.

Content

This waiver policy is based on three basic assumptions: 1) Trade Readjustment Allowance (TRA) is primarily for workers who are in training; 2) in this time of low unemployment, displaced workers should, in most cases, be able to return to the workforce in a reasonable amount of time; and, 3) all displaced Hoosier Trade-certified workers should, at a minimum, have either a high school diploma or a GED.

Trade Readjustment Allowance (TRA), the weekly stipend component of TAA, is available for Trade-certified displaced workers who are in full time approved training. This weekly benefit is paid to assist them financially while they are in school. The Trade Adjustment Assistance Act does, however, allow this training requirement to be waived in certain circumstances. Generally, a waiver from training can be issued upon a supported finding that training is not appropriate or feasible for a worker. This determination may be very fluid, changing from one month to the next. In other cases, people may have life circumstances that would preclude them from ever entering into or successfully completing a training program.

Skills upgrading and lifelong learning are priorities, not only here in Indiana, but across the nation. Our customers must be willing to learn and relearn for the rest of their working lives. At the most basic level, we believe TAA can act as a broker to provide adult basic education and GED testing for all certified workers who are in need of this service. These services are widely available through school systems, community-based organizations, and some local offices. The goal is for every TAA-certified worker who needs one, to get a GED before terminating from the TAA program.

ISSUING A WAIVER (20 CFR Part 617.19 (a) and (b))

Most Trade-certified displaced workers should be able to return to the workforce prior to exhausting their UI claim during the first 26 weeks of their period of unemployment. People who are unable to find employment within six months of being dislocated are in need of some type of training (remedial, classroom, or OJT), to make them more marketable and employable. Those workers will be allowed up to two waiver periods for career exploration and training plan development. They must be enrolled in a training program on or before the expiration date of the second waiver. If they are not in training, then benefits will be denied because they are not in approved training, nor have they been waived from the training requirement.

For a minority of Trade-certified workers, training may *not* be appropriate or feasible for the duration of their TRA benefits. These people may have such low skills or abilities that, even with remediation, they will not be able to successfully complete training within the time allowed by the Act. Some workers may have a recall date from their adversely affected employer that would preclude entering into a training program. In these or similar cases, training can be waived with the approval of the state TAA coordinator. No waivers should be issued because an "individual has suitable skills and there is a reasonable expectation of employment in the foreseeable future." If that were the case, the individual would have found employment during his/her original unemployment claim period.

Regardless of circumstance, workers who are waived from training must:

- 1) be able, available and actively engaged in a sustained and systematic job search;
- 2) follow the written local office UI Extended Benefit (EB) work search policy; and,
- 3) accept any job that pays the greater of their unemployment benefits or minimum wage.

REVOKING A WAIVER (20 CFR Part 617.19 (c))

A waiver revocation is actually an indication of a change in circumstance, rather than a punishment for not following a prescribed course of action. If a waiver is issued because training is not appropriate or feasible, then it can only be revoked because training has become appropriate or feasible. For example, a transitional worker might have had a specific recall date at the time a waiver was issued. At some time after that, his/her company might have decided to close. In that case, the worker no longer has a recall date and can be considered for training. Another example might be a worker who has moved from a rural area with no reasonably available training opportunities, to an area where training is readily available. As with issuing waivers, a revocation must be approved by the state TAA coordinator.

SANCTIONS (20 CFR Part 617.17 and IC 22-4-14-6)

All Trade-certified workers who are waived from training are required to meet the EB work test in each week TRA is claimed. Failure to do so may result in the EB penalty being imposed. This penalty renders the worker ineligible for benefits "... for the week in which the failure occurs and

until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount in each of four weeks."

APPEALS

Waiver decisions, like all TAA decisions, may be appealed. State and local coordinators will try and work out problem situations prior to the appellate stage, however the worker does have a right to appeal a decision regarding training or waiver from training. The appeal process follows the same guidelines as unemployment insurance.

Action

Program directors and local office managers should ensure that all staff are aware of this policy change. TAA coordinators should implement this policy as outlined, understanding that there may occasionally be an unusual circumstance which needs to be addressed. Local coordinators can contact the state TAA coordinator for guidance.

Effective Date

This policy is effective upon receipt for all new workers in the TAA program. Workers who are currently receiving waivers from the training requirement will be covered by this policy, but their waivers will stay in effect.

Ending Date

N/A

cc: Local TAA Coordinators